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JULY 31, 2014

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CONFIDENTIAL TREATMENT REQUESTED

Marlene H. Dortch, Secretary
Federal Communications Commission
445 12th Street, SW
Washington, DC 20554

Re: Amendment of Parts 1, 2, 22, 24, 27, 90, and 95 of the Commission's Rules to Improve Wireless Coverage through the Use of Signal Boosters
WT Docket 10-4

Dear Ms. Dortch:

CellAntenna, by counsel and in accordance with Section 1.1206 of the Commission's rules, 47 C.F.R. § 1.1206, writes to supplement the record in the captioned proceeding. CellAntenna notes that the matter is currently under reconsideration.[1] CellAntenna writes to bring new information to the Commission's attention which may impact the substance of the rules ultimately adopted in this proceeding.

Specifically, as explained in greater detail below, despite the Commission's expectation that licensees would act in good faith when responding to consent requests,[2] CellAntenna has experienced routine denial of consent for installation of Industrial Signal Boosters[3] for several of its projects. In each instance, CellAntenna has provided engineering and design information meeting all carrier-specified engineering criteria and using Commission-approved Industrial Signal Boosters.[4] For that reason, and for the reasons set forth below, CellAntenna asks that the Commission revise proposed Section 20.21(c)(1) as follows (proposed additional wording underlined):

(1) Has an FCC license or obtains the express consent of the licensee(s) whose frequencies are being retransmitted by the device on a regular basis, <u>which licensee consent may be withheld only based on credible concerns about harmful interference from the proposed Industrial Signal Booster</u>, and

[1] Petition for Reconsideration of V-COMM, L.L.C., Verizon Wireless, and Wilson Electronics, WT Docket No. 10-4, filed May 13, 2013 ("Petition"). *See also, Public Notice,* Petitions for Reconsideration of Action in Rulemaking Proceeding, Report No. 2979, May 20, 2013.

[2] Amendment of Parts 1, 2, 22, 24, 27, 90, and 95 of the Commission's Rules to Improve Wireless Coverage Through the Use of Signal Boosters, Report and Order, 28 FCC Rcd 1663, 1704 (2013) ("Signal Booster Order").

[3] Definitions are set forth in Section 20.3 of the rules, as adopted. "Signal Booster" is defined as a device that automatically receives, amplifies, and retransmits on a bi- or unidirectional basis, the signals received from base, fixed, mobile, or portable stations, with no change in frequency or authorized bandwidth. "Industrial Signal Boosters" are defined as all signal boosters other than Consumer Signal Boosters. "Consumer Signal Boosters" are defined as a bi-directional signal booster that is marketed and sold to the general public for use without modification. Signal Booster Order, at 1738-1739.

[4] CellAntenna submitted the system design and engineering information in the format specified by each carrier. To demonstrate the various demands made by the carriers, the formats specified by each carrier are attached to this letter as Exhibit 1. Included is the agreement AT&T demands the customer sign as a condition to the consent. CellAntenna notes that the letter requires AT&T approval of the customer's contractor. The Commission specifically rejected a requirement of certification for technicians who install larger, more powerful signal boosters. Signal Booster Order at 1704. This contractual requirement imposed unilaterally by AT&T would seem to be contrary to the Commission's determination that technician certification was unnecessary.

In support of its request, CellAntenna notes that in his statement accompanying the Signal Booster Order,[5] then-Chairman Genachowski heralded the regulatory regime for Signal Boosters noting that Signal Boosters "are a cost-effective means of expanding the reach of our nation's wireless infrastructure."[6] Chairman Genachowski went on to note the bright promise of Signal Boosters, particularly in light of the Commission's rules prohibiting interference from them.[7] It is important to note that Signal Boosters merely provide better service to carriers' existing customers. Signal Boosters, by their very nature, improve carriers' service, and enhance their reputations without adding burden to the carriers' networks.

The bright promise of Signal Boosters, however, is being crushed by carriers who refuse to grant consent to Industrial Boosters, as contemplated by Section 20.21(c)(1) of the rules, 47 C.F.R. § 20.21(c)(1).[8] Because the Signal Booster rules leave discretion in the hands of the carriers,[9] the carriers are free to deny consent. [10]

Specifically, Section 20.21(c)(1) of the rules requires that any person operating an Industrial Signal Booster have the consent of the licensee(s) whose frequencies are being retransmitted by the device on a regular basis. The consent process was designed to allow carriers to be directly involved to ensure 1) that coverage needs are met and 2) to avoid harmful interference to the carriers' networks from the Industrial Signal Booster installation.[11] Even though only two bases for the consent requirement were set forth in the Signal Booster Order, the rule provides no process for obtaining consent and fails to tie the criteria for denying consent to the goals of the consent requirement. The carriers may withhold consent for good reason, bad reason, or no reason at all.

This wide discretion is not only contrary to the optimistic spirit of the Signal Booster Order, it is being abused by some carriers to gain advantage in the marketplace. In the last forty-five (45) days, on three separate occasions AT&T has refused its consent.

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[5] Signal Booster Order, at 1762-1763.
[6] Signal Booster Order, at 1762.
[7] *Id.*
[8] CellAntenna provides documentation of AT&T consent denials with this letter. Sprint recently began denials based on capacity concerns. Capacity concerns cannot reasonably justify the denial of an Industrial Signal Booster consent. No Industrial Signal Booster adds subscribers. Industrial Signal Boosters merely enhance the experience of existing customers.
[9] In its Comments and Reply Comments in the Signal Booster proceeding, CellAntenna noted the challenges it had experienced with carrier cooperation when installing Signal Booster equipment. Comments of CellAntenna, July 26, 2011, 2-5, and Reply Comments of CellAntenna, August 24, 2011, 7-9.
[10] Having denied consent, perhaps the denying carrier might even use the customer information provided in the application for consent to circumvent the Signal Booster provider and sell the same or comparable equipment and services to the Signal Booster's customer.
[11] Signal Booster Order at 1703.

[BEGIN CONFIDENTIAL INFORMATION]

[redacted]

[END CONFIDENTIAL INFORMATION]

On several other projects, AT&T

- queried CellAntenna about building configuration – not Industrial Signal Booster configuration
- requested that CellAntenna predict AT&T peak user counts, and
- specifically noted an unwillingness to consent to certain installations because of the type of business conducted in the location.

[BEGIN CONFIDENTIAL INFORMATION]

[redacted]

[12] The text immediately following the bracketed name is the AT&T response taken directly from communications with CellAntenna.

[13] CellAntenna is confounded by the additional inquiry regarding subscriber counts. Many of the buildings to be served are public places. An accurate subscriber count would be impossible to render. More to the point, as noted above, Industrial Signal Boosters do not increase the number of subscribers using the network. They simply enhance existing users' experience.

[redacted]

[redacted]

[redacted]

[END CONFIDENTIAL INFORMATION]

The Commission should not countenance AT&T's insistence on provision of information irrelevant to meeting coverage needs or avoiding harmful interference to AT&T's operations, particularly when that information is uniquely available to AT&T. No carrier has ever suggested that a CellAntenna installation would create harmful interference. In fact, the correspondence from AT&T is bereft of any mention of interference concerns. Clearly, this AT&T process is not what the Commission envisioned as good faith cooperation.

Even so, if interference occurs, Section 20.21(d) sets forth a process for resolution of it. CellAntenna has a reputation for cooperation with carriers, particularly with resolving network concerns.[15]

Considering CellAntenna's recent experience, it is clear that the Commission's confidence in some carriers' good faith was misplaced. CellAntenna asks that in adopting revised rules on reconsideration, the Commission state unequivocally that the only reason a carrier may deny consent would be a reliable prediction that coverage will not be improved or that harmful interference will result from its installation.

Should questions arise in connection with this filing, please give me a call.

Very truly yours,

Marjorie K. Conner

cc: Roger S. Noel
Amanda Huetinck
Howard Melamed

[14] AT&T seems to have adopted a policy disallowing Industrial Signal Boosters at medical centers. It is curious because AT&T has approved Industrial Signal Boosters at medical centers in the past. The supplemental services are working well, providing service to underserved buildings, without interference.

[15] *See also,* Signal Booster Order at 1703.

Exhibit 1

Applications for Consent to Industrial Signal Boosters

AT&T and Verizon

In-Building Site Data, for new site

Basic Site Data

AT&T Site Number (XXX-XXX assigned by RF engineer)
AT&T Site Common Name (name of bldg, company, etc.)
AT&T Market name
Street Address
City
County
State
Zip code
Latitude (decimal degrees) (of the donor antenna)
Latitude (deg-min-sec)
Longitude (decimal degrees) (of the donor antenna)
Longitude (deg-min-sec)
NAD 83 or NAD 27 ?
Source of coordinates (GPS, MapInfo, ACME Mapper, etc.)
Number of wireless users of this proposed repeater system.
Nearest cross street
Access restrictions
Notice needed?
Keys/Combo
Head End: Floor, Room#, Suite #
DAS install Company
Name of person signing Occupancy Agreement Letter
Authority of person signing occupancy letter
Phone number of person signing occupancy letter
Building Owner name/company name
Building owner contact person
Building owner phone number
Building owner address

RF Configuration Data

Donor Cell Site, sector (XXX-XXX, alpha, beta, gamma)
Latitude (decimal degrees)
Latitude (deg-min-sec)
Longitude (decimal degrees)
Longitude (deg-min-sec)
Repeater Manufacturer
Repeater Model
Repeater Programmed Band(s) (i.e. PCS B band, plus A5)
Repeater Gain (dB)
DAS manufacturer/model (ex. Mobile Access/TE/Andrew)
Donor Antenna Make and Model, (850)
Donor antenna gain (dBi)
Donor Antenna Make and Model, (1900)
Donor antenna gain (dBi)
Rad center of donor antenna
Donor antenna azimuth
Expected RSSI into Donor antenna (dBm)
Feedline losses, donor antenna to repeater (dB)
Feedline losses, repeater to coverage antenna (dB)
Coverage Antenna Make and Model (type 1)
Coverage antenna gain (dBi)
Coverage antenna, count
Coverage Antenna Make and Model (type 2)
Coverage antenna gain (dBi)
Coverage antenna, count

In-Building Site Data, for new site

Calculated coverage antenna transmit power (dBm)

In-Building Site Data, for new site

Dear ,

AT&T Mobility National Accounts LLC ("AT&T") must ensure that the integrity of the AT&T network is maintained so that we can provide you and other subscribers with quality service and avoid harmful interference to other FCC licensees. Moreover, the FCC requires AT&T to maintain operational control over any transmitting device using AT&T's assigned frequencies or frequencies on which other carriers operate, that is deployed within its network. Repeaters, bi-directional amplifiers and similar radio frequency enhancements (hereinafter "devices" or "systems") deployed on your premises may negatively impact AT&T's network or the networks of other carriers or FCC licensees.

In order to comply with this FCC requirement, AT&T must control the devices utilized on its network and we must be able to access any devices operating on our spectrum or in the network twenty-four (24) hours per day, seven (7) days per week in order to ensure that the devices are not interfering with other networks or FCC licensees.

Accordingly, any entity that installs a device in our network that transmits AT&T's frequencies must first obtain AT&T's consent to deploy such devices and must provide AT&T with twenty-four (24) hour a day, seven (7) day a week access to, and contact information for, any such device or system. We will, of course, work with our customers by providing appropriate notice when access is needed. Notwithstanding the foregoing, in order to prevent harmful interference, AT&T retains the right to shut down any device operated within our network that causes harmful interference to our own system or any other licensee's system.

There may be other federal, state or local legal requirements and guidelines with which you have to comply in order to install or deploy such devices. As these become applicable, we will advise you of their impact.

In order for you and AT&T to comply with the foregoing, any device installed must meet the requirements set forth below. You have authority to deploy these types of devices only if you comply with the following requirements:

(a) The device must be approved by AT&T. Please consult with your AT&T project manager to obtain a list of approved devices and vendors.

(b) Monitoring and alarming capabilities with a direct dial line in with remote shutdown is required.

(c) The device may only be installed by a AT&T approved contractor. Please consult with your AT&T project manager to obtain a list of approved contractors.

(d) You cannot install the device or system without AT&T's prior approval of the equipment and contractor. AT&T has absolute discretion to determine whether to approve the installation of any equipment. The system design comprising the device and any associated signal distribution system shall be presented to AT&T through your AT&T project manager for approval. AT&T reserves the right to reject any design without qualification. Approval to activate such design as implemented is contingent upon specific approval from AT&T and shall not occur otherwise.

(e) You are responsible for any costs associated with the initial qualification process, the approval of the equipment, and the installation and maintenance of the equipment.

(f) You may need to make modifications to your system in the future at your own expense, in order to maintain satisfactory performance, due to changes made by AT&T on its network or due to harmful interference being caused to AT&T's network or the network of any other FCC licensee.

In addition to complying with the foregoing requirements, you must provide AT&T with the information set forth below.

- The specific location of the equipment, including the street address and description in building.
- The anticipated number of users.
- The effective on-air date/installation date.
- Upon completion of the system, a copy of the "as built" information.
- The name(s) and phone number(s) of the person(s) with access to the equipment.

  Please include this information along with the signed contract, and send to:

  AT&T Mobility National Accounts LLC
  Attn :

If any changes are made to this information, please notify AT&T in writing immediately.

Please do not hesitate to contact at if you have any questions.

By signing below, you agree to comply with all of the terms set forth in this letter upon which AT&T grants you authority to deploy an AT&T approved repeater (or bidirectional amplifier) that utilizes AT&T's frequencies.

AT&T Mobility National Accounts LLC

By_____ By_____

Name_____ Name_____

Title_____ Title_____

Date_____ Date_____

IBRD Site Name:

SALES INPUT FORM

In Building Request Form - Re Transmission Agreement

End User Company Name:			
Verizon Wireless Business Customer? ____ *Yes* _ _ *No*			*Customer Account No.:*
Company Address:		**City, State, Zip:**	
IBR Address:		**City, State, Zip:**	
company Contact:		**Phone #:**	
Contact Title:			
Contact Email Address:			

Type of Equipment:	
Repeater Model:	
Donor Antenna Model:	

Installation Company:	CellAntenna Corporation
Installer Contact Name	Stevan Melamed
Installer Contact Phone	954-340-7053 x214
Installer Email	smelamed@cellantenna.com
Date System to be turned up:	
Direction Donor Antenna to point:	

CONFIDENTIAL EXHIBIT 2

Confidential Correspondence regarding Trump Doral Hotel

Application for Consent to Industrial Signal Booster

[redacted]

[redacted]

[redacted]

[redacted]

We currently have capacity constraints in this area of [redacted]. A repeater fed DAS system would cause additional complications to our current macro network. This is a large capacity venue that was recently renovated and if there are coverage or capacity concerns they need to be addressed via DAS/BTS solution for the entire venue not just certain areas in the building. For this location I have to decline the use of a repeater and recommend the use of a BTS instead. Before moving forward with a BTS source option our indoor ASG team will have to approve the DAS design.

From: stevan.melamed@a1a.co [mailto:stevan.melamed@a1a.co] **On Behalf Of** Stevan Melamed
Sent: Monday, July 07, 2014 11:16 AM
To: DAVIS, DEBBY
Cc: Stevan Melamed
Subject: [redacted]

The Hotel is large, however the coverage area is only for employees. (5 antennas!). There is no budget to cover the entire venue, let alone cover the entire venue in addition to a $180,000 AT&T BTS setup. In addition, the customer will end up purchasing a Commercial grade repeater to cover AT&T services anyways for the 5 antennas. We recommended to them going the route of an industrial repeater for AT&T so that we can coordinate with the carriers on installation and service outages.

This seems to be pretty simple request. This route at least allows coordination with AT&T. The route they will take is just an off the shelf booster without any coordination/service from CellAntenna.

On Tue, Jul 8, 2014 at 1:25 PM, DAVIS, DEBBY <dd4966@att.com> wrote:

Understood, I can only communicate the decision I receive from our Market RAN group.

[redacted]

Verification

I, Howard Melamed, Chief Executive Officer of CellAntenna Corporation ("CellAntenna"), hereby verify that the facts asserted in CellAntenna's *ex parte* letter are true and correct to the best of my knowledge, information, and belief.

Howard Melamed
Chief Executive Officer
CellAntenna Corporation

July 31, 2014